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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,797	09/21/2004	Tetsurou Hashiguchi	HOK-0245	3942

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EXAMINER

POUS, NATALIE R

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/508,797

Applicant(s)

HASHIGUCHI ET AL.

Examiner

Natalie Pous

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/21/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The following is a first action on the merits of amended claim set dated 9/21/04 which begins on page "17."

Claim Objections

Claim 1 is objected to because of the following informalities: reference characters should be avoided in the claims.

Claim 2 objected to because of the following informalities: line 2 calls for "sad coupler," it is inferred that the correct spelling is --said coupler--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being obvious over Yamaguchi et al. (US 6730100) in view of Wetzel (US 5611145).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Yamaguchi teaches the following:

A hair removing device comprising;

- a housing (7) incorporating therein a rotary motor (3)
- and an epilator head (2) carrying epilation members (5a, 6a, 36, 37) for removing hairs from the user's skin

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- said epilator head being detachably mounted to said housing (Column 1, proximate lines 35-40)
- including a drive mechanism (15) which is powered by said motor to actuate said epilation members
- said drive mechanism including a coupler (261) which is detachably connected to a joint (11) to receive the rotary motion of said motor
- said epilator head includes a cylinder having a center axis (4b) and carrying said epilation members (5a, 6a, 36, 37)
- said drive mechanism including a first linkage (40) leading from said coupler for rotating the cylinder (4) about said center axis in order to pluck the hairs (Column 8, proximate lines 5-10)
- said device further including: a shaving head (SH) which is selectively detachable to said housing in place of said epilator head for cutting the hairs (Column 9, proximate lines 62-67)
- said shaving head carrying a cutter (s1) and including a shaving drive-mechanism (s5-s7) which is powered by said motor to move said cutter for cutting the hairs
- said shaving drive mechanism including a shaving coupler which is detachably connected to said joint (18-1) for receiving the rotary motion of said motor
- wherein said first linkage is provided to shift said epilation members along said center axis towards and away from one another to pinch the hairs between the adjacent hair epilation member, while rotating the cylinder about said center axis

in order to pluck the hairs pinched between the adjacent hair epilation members, said drive mechanism further including a second linkage leading from said coupler for rotating said cylinder about said center axis for oscillating the cylinder along said center axis, said cylinder being arranged to have its center axis lying substantially in a coplanar relation with the axis of said joint (Column 8, proximate lines 60-68).

- wherein the coupler of said epilator head is integrally formed with a coaxial pinion (15g) which engages with a common gear wheel (15e) forming a part of said first and second linkages.
- wherein said epilator head includes a base (12) detachable to said housing, and a frame (155) mounting a plurality of gears forming said first and second linkages in addition to said cylinder, said frame being supported to said base by way of spring means (26, 26d) to be movable relative to said base against the bias of said spring means
- wherein said frame is movable relative to said base against the bias of said spring means (26) in a direction along said axis of said joint as well as in a direction along the center axis of said cylinder.

Yamaguchi fails to disclose the following

- said motor having an output rotor shaft (3a) fixedly carrying a non-circular joint (3b)

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- said coupler being coaxial with said joint and movable together with said actuating head (2) into and out of engagement with and from said joint
- said coupler (17-2) being slidable along the axis of said joint while keeping a driving connection there-between
- said shaving drive mechanism translates the rotary motion of the motor directly into the reciprocating movement of said cutter without any intervening reduction gear.

Wetzel teaches a dry-shaving apparatus with a motor having an output rotor shaft (6) fixedly carrying a non-circular joint (40) a coupler (23) being coaxial with said joint and movable together with said actuating head (9) into and out of engagement with and from said joint said coupler (23) being slidable along the axis of said joint while keeping a driving connection there-between, and wherein the said shaving drive mechanism (430) translates the rotary motion (from drive shaft 6) of the motor directly into the reciprocating movement of said cutter (21) without any intervening reduction gear in order to simplify the construction of the drive train, and in turn allow the cutter to reciprocate at a frequency higher than a rotational speed of said cylinder. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Yamaguchi with shaving head of Wetzel in order to allow the cutter to reciprocate at a frequency higher than a rotational speed of said cylinder and simplify the construction of the drive train, and in turn reduce cost of manufacture.

Regarding Claim 2, the combination of Yamaguchi and Wetzel teaches all limitations of preceding dependent claim 1, and Wetzel further teaches wherein the coupler (23) is in the form of a sleeve defining therein a socket hole, but fails to teach wherein the said joint fits in to the socket hole, and the coupler is recessed from a bottom end of the actuation head. It would have been an obvious matter of design choice to modify the coupling mechanism of the combination of Yamaguchi and Wetzel with the said joint fitting in to the socket hole, and the coupler recessed from a bottom end of the actuation head, since the applicant has not disclosed that the coupling mechanism provides any advantage over different actuating mechanisms and it appears that the combination of Yamaguchi and Wetzel performs the task of coupling the actuating head to the base equally well.

Regarding Claim 8, the combination of Yamaguchi and Wetzel teaches all limitations of preceding dependent claim 1, but fails to disclose wherein the coupler of said shaving head is integrally formed with an eccentric cam which engages with a reciprocator carrying said cutter for translating the rotary motion of the motor into a reciprocating movement of said cutter. Wetzel does teach wherein the shaving head is integrally formed with a cam (430) which engages with a reciprocator (410) carrying a cutter (400) for translating rotary motion from the motor to a reciprocating movement of said cutter (230, 240). It would have been an obvious matter of design choice to modify the shaving head of the combination of Yamaguchi and Wetzel with an eccentric cam for actuating reciprocation movement of the cutter since the applicant has not disclosed that the eccentric cam provides any advantage over different actuating mechanisms and

it appears that the combination of Yamaguchi and Wetzel performs the task of reciprocating movement of the cutter equally well.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-6, 8 and 9 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6730100 in view of Wetzel et al. (US 5611145). The combination of Yamaguchi and Wetzel teach and suggest all limitations of pending claims 1-6, 8 and 9, and the differences in mechanics produce the equal results and substitution would be obvious to one of ordinary skill in the art as described previously.

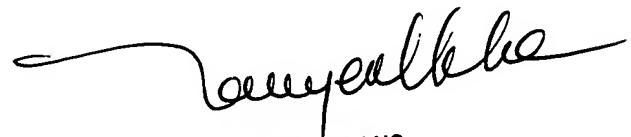
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie Pous whose telephone number is (571) 272-6140. The examiner can normally be reached on Monday-Friday 8:00am-5:30pm, off every 2nd Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NRP
4/25/06


(JACKIE) TAN-UYEN HO
PRIMARY EXAMINER
4/28/06